

Thompson
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Colbert H.I.V.



October 3, 1990

RECEIVED

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SUPERFUND BRANCH

Reply To
Attn Of: SO-125

Johnathan I. Feil
Simburg, Ketter, Sheppard & Purdy
Attorneys At Law
2525 First Interstate Center
Third and Marion
Seattle, Washington 98104

Re: Request for Testimony by EPA Employee

Dear Mr. Feil:

Pursuant to our telephone conversation, I have enclosed copies of the following cases which grant the Environmental Protection Agency's ("EPA") Motion To Quash A Subpoena:

Boron Oil Company et al. v. Jack L. Downie No. 87-73-w(k)
(4th Cir 1989).

Allied Corporation et al. v. Acme Solvents Reclaiming Inc.
et al No. 86 C 20377 (ND Ill. 1988).

Environmental Enterprises, Inc. v. United States
Environmental Protection Agency No. 87-288 (D.D.C. 1987).

These decisions grant EPA's Motion To Quash in circumstances which are very similar to that presented by your subpoena. These decisions recognize that sovereign immunity protects EPA and its employees from subpoenas without the consent of the agency. Similarly, these decision recognize that validity of EPA's regulations.

I have also enclosed the following two Orders in which similar subpoenas have been quashed in the State of Washington:

No Damaging Or Unsightly Municipal Pollution, Inc., v. King
County, et al. No. C82-186RV (WD Wash 1985).

Joy and Margaret Harris, et al. v. Shell Oil Company, et al.
No 84-2-00279-7 (WA Super. Ct 1985).

It is my understanding that the Order in No Damaging Or Unsightly Municipal Pollution involved a subpoena seeking testimony from EPA employees regarding groundwater in the general vicinity of a landfill and the requirements for permitting of landfills. Similarly, the Order in Harris

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involved a subpoena seeking testimony regarding groundwater contamination.

Based on these cases, I am requesting that you withdraw your subpoena of Neil Thompson. We remain willing to authenticate appropriate documents. If you have any questions, please call me at (206) 442-1777.

Sincerely,


Cynthia D. Mackey
Assistant Regional Counsel

Enclosures

cc: Neil Thompson, Project Manager
Joe Harrington, Assistant U.S. Attorney

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4 SUPERIOR COURT FOR THE STATE OF WASHINGTON, SPOKANE COUNTY
5

6 KEY TRONIC CORPORATION, INC.)

7 Plaintiff,)

8 vs.)

9 AETNA FIRE UNDERWRITERS)
10 INSURANCE COMPANY et al.,)

11 Defendants.)

NO. 87-2-03713-9

SUBPOENA

12 THE STATE OF WASHINGTON TO: Neil Thompson, c/o U.S. Environ-
13 mental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101

14 GREETINGS:

15 YOU ARE HEREBY COMMANDED to be and appear at the offices of
16 Simburg, Ketter, Sheppard & Purdy, P.S., 2525 First Interstate
17 Center, 999 Third Avenue, Seattle, Washington, on Thursday, the
18 11th day of October, 1990, commencing at the hour of 9:30 a.m.,
19 then and there to testify as a witness at the request of the
20 defendants in this cause, and to remain in attendance until
21 discharged; and

22 HEREIN FAIL NOT AT YOUR PERIL.

23 WITNESS my hand this 14th day of September, 1990.

24 SIMBURG, KETTER, SHEPPARD & PURDY

25 By: 

26 Jonathan I. Feil
(WSBA #14166)

27 Attorneys for defendants
28 CIGNA Fire Underwriters,
INA, and Century Indemnity

SUBPOENA FOR DEPOSITION

SIMBURG, KETTER,
SHEPPARD & PURDY, P.S.
2525 FIRST INTERSTATE CENTER
SEATTLE, WASHINGTON 98104
(206) 382-2600

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3
4 SUPERIOR COURT FOR THE STATE OF WASHINGTON, SPOKANE COUNTY
5

6 KEY TRONIC CORPORATION, INC.)
7)

8 Plaintiff,)

NO. 87-2-03713-9

9 vs.)

NOTICE OF DEPOSITION

10 AETNA FIRE UNDERWRITERS)
11 INSURANCE COMPANY et al.,)

Defendants.)
12

13 TO: Neil Thompson, c/o U.S. Environmental Protection
14 Agency, 1200 Sixth Avenue, Seattle, WA 98101;

15 TO: Jackson L. Fox, Regional Counsel, EPA Region X;

16 AND TO: All Counsel of Record.

17 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the
18 testimony of Neil Thompson will be taken upon Oral Examination
19 at the instance and request of the defendants in the above
20 entitled and numbered action, before a Notary Public at the
21 offices of Simburg, Ketter, Sheppard & Purdy, P.S., 2525 First
Interstate Center, 999 Third Avenue, Seattle, Washington, on
Thursday, the 11th day of October, 1990, commencing at the hour
of 9:30 a.m., the said Oral Examination to be subject to
continuance or adjournment from time to time or place to place
until completed, and to be taken on the ground and for the
reason the said witness will give evidence material to the
establishment of the defendants' case.

22 DATED this 14th day of September 1990.

23 SIMBURG, KETTER, SHEPPARD & PURDY

24
25 By: 

Jonathan I. Feil

(WSBA #14166)

Attorneys for defendants

CIGNA Fire Underwriters,

INA, and Century Indemnity

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27
28 L08dep

NOTICE OF DEPOSITION

SIMBURG, KETTER,
SHEPPARD & PURDY, P.S.
2525 FIRST INTERSTATE CENTER
SEATTLE, WASHINGTON 98104
(206) 382-2600

1
2
3 SUPERIOR COURT FOR THE STATE OF WASHINGTON, SPOKANE COUNTY
4

5 KEY TRONIC CORPORATION, INC.)

6 Plaintiff,)

7 vs.)

8 AETNA FIRE UNDERWRITERS)
9 INSURANCE COMPANY et al.,)

10 Defendants.)

NO. 87-2-03713-9

CERTIFICATE OF SERVICE
BY MAIL

11 I certify that I mailed a copy of the foregoing NOTICE OF
12 DEPOSITION to the following attorneys at the addresses
13 indicated, postage prepaid, on September 14, 1990:

14 Stevan D. Phillips
15 Stoel, Rives, Boley,
16 Jones & Grey
3600 One Union Square
Seattle, WA 98101

Michael J. Bond
Lee, Smart, Cook, et al.
800 Puget Sound Plaza
1325 4th Avenue
Seattle, WA 98101-2585

17 Mr. Hugh R. McGough
18 Unigard Insurance Company
15805 N.E. 24th Street
Bellevue, WA 98008

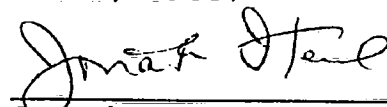
Judith A. Corbin
Huppin, Ewing & Anderson, P.S.
521 Parkade Plaza
Spokane, WA 99201

19 Lisa Powell
20 Oles, Morrison & Rinker
21 33rd Floor, Columbia Center
701 Fifth Avenue
Seattle, WA 98104

William J. Price
Karr Tuttle Campbell
1201 Third Avenue
Suite 2900
Seattle, WA 98101-3028

22 Tyna Ek
23 Merrick, Hofstedt & Lindsey
24 710 Ninth Avenue
Seattle, WA 98104

25 DATED this 14th day of September, 1988.

26 

27 Jonathan I. Feil, of
28 SIMBURG, KETTER, SHEPPARD & PURDY
Attorneys for defendants CIGNA
Fire Underwriters, INA, and
Century Indemnity

SIMBURG, KETTER,
SHEPPARD & PURDY, P.S.
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SEATTLE, WASHINGTON 98104
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